IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Crl.Rev.Pet.No. 1114 of 2000()

CRA.148/1997 of SESSIONS COURT, KOZHIKOE
CC.114/1994 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE

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REVN. PETITIONER: APPELLANT/ ACCUSED

K.RAMACHANDRAN,
S/O.NARAYANAN NAIR,
KARIYERI HOUSE, CHERUKULATHUR,
KOZHIKODE.

BY ADV. SRI.P.K.RAMKUMAR

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA,
REP.BY STATION HOUSE OFFICER,
CITY TRAFFIC POLICE STATION,
CALICUT , KOZHIKODE.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03 / 08 /2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.1114/2000

ORDER ON CRL.MP. NO.5870/2000 IN CRL.RP.1114/2000

DISMISSED

03.08.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

tss

K.R.UDAYABHANU, J

Crl.R.P.No.1114 of 2000

Dated this the 3rd day of August, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 279, 337 and 338 IPC and sentenced to undergo simple imprisonment for six months each for the offences under Sections 279 and 338 IPC and also to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for one month for the offence under Section 338 IPC. No separate sentence is awarded for the offence under Section 337 IPC.

2. The prosecution case is that on 15.9.1993, at about 9.00 a.m., the accused did drive the bus bearing registration No.KLN 372 in a rash and negligent manner so as to endanger human life through Mavoor-Kozhikode road and when it reached near the K.K.Sons Service Station the bus ascended over a culvert resulting in injuries to a number of passengers and grievous injuries to CW2.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 13 and Exs. P1 to P14.

4. The witnesses examined, included the injured, passengers of the bus i.e., PWs' 1, 2, 3, 4, 5 and 12. They have testified that the incident took place when the accused was overtaking another bus that was going ahead. It was suggested in the cross examination that the accused was forced to swerve the vehicle towards the left as a jeep came from the opposite direction all on a sudden. It was found that it was only on account of the over speed that he could not stop. The evidence of PW13, the AMVI, who has proved Ext. P13 report show that the vehicle had no mechanical defect. Exts. P2 to P8 are the wound certificates that included that of CW2 i.e., Ext. P2, who sustained fracture of right calcanium. The identity stands not disputed and the same is also proved by Ext. P11 trip sheet. In the circumstances, I find no reason to deviate from the findings of the courts below. The conviction is confirmed.

5. Counsel for the revision petitioner has sought for modification of the sentence pleading for leniency pointing out that so many years have elapsed since the commencement of the proceedings and that so far the accused was facing the criminal

proceedings. Of course, about 14 years have elapsed since the date of the incident. In the circumstances, the sentence imposed for the offence under Section 338 IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- to the legal representatives of CW2 and in default, to undergo simple imprisonment for three months. No separate sentence is awarded for the rest of the offences. The revision petitioner is granted two months' time to remit the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-I, Kozhikode on 8.10.2007 to receive the sentence.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

Crl.R.P.No.1114/2000

JUDGMENT

25th July 2007